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Subject: Mercury BPA

Patrick - we appreciate the meeting last week and the opportunity to hear your thoughts on the Draft Basin Plan Amendment (BPA) for mercury and methylmercury. Based on this discussion, the following provides our initial thoughts that are focused on the Sacramento Valley.

Load Allocations. As you heard at the meeting, Table H is very confusing to people. I am not sure you need the table to make this BPA effective. Certain parts of the Table (i.e., the Cache Creek Settling Basin) could be addressed specifically in the text.

Statutory Delta. We support the approach you have described to initially focus on the statutory delta and Yolo Bypass as shown on BPA-19. This allows you and your staff to focus on a manageable area and focus energies in those areas with high levels of mercury. It is important to note that there are several ongoing processes upstream that support this process. This includes the: Cache Creek Watershed TMDL adopted by the Regional Board in October 2005 (with SWRCB and OAL approval), including Cache Creek, Bear Creek, Sulphur Creek and Harley Gulch; and the Clear Lake Mercury TMDL. I understand that the Sulphur Creek BPA will be before the Regional Board in March.

Water Management. To follow the discussion on Friday, the water management and salinity objectives sections (BPA-7) are overly broad and unnecessary. One suggestion is to use the California Environmental Quality Act (CEQA) as the mechanism for the Regional Board, as a responsible agency, to engage on the projects contemplated in these sections.

Funding for Characterization Studies. We still have concerns about entities being forced to pay for the Characterization and Control Studies. Certain entities have the ability to fund these efforts, but many others simply do not have a funding mechanism to pay for expensive studies. As we have previously suggested (see the November 17, 2006 letter with attachment), we believe there is a strong public interest in controlling mercury that should be supported by broad public funding. We hope that the Regional Board, the State Water Resources Control Board, and CALEPA will join efforts to secure public funding for these studies. This will not only help with respect to funding, it will also assure a more coordinated and comprehensive approach to the studies that will better inform and set the stage for subsequent regulatory actions by the Regional Board.

Thank you for the opportunity to present our views on the draft BPA. Please call if you have any questions or would like to discuss further.

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